

First Congressional Restraints Are Imposed on C.I.A.

By BENJAMIN WELLES

Special to The New York Times

WASHINGTON, Feb. 12—The foreign aid authorization bill, signed by President Nixon on Monday, includes for the first time in a quarter-century new controls on the operations, cost and personnel of the Central Intelligence Agency.

The controls, which thus far have attracted little public attention, are the first to be added since Congress created the agency through the National Security Act of 1947, a measure that was amended in 1949.

This act exempts the CIA from most fiscal and personnel controls imposed on other federal agencies. Funds, personnel and material voted by Congress to other agencies, such as the Defense Department, can, for example, be switched legally to the C.I.A.

The controls were inserted at various points in this year's aid bill largely through the efforts of Senators Clifford P. Case, Republican of New Jersey; Frank Church, Democrat of Idaho; and Stuart Symington, Democrat of Missouri.

They are members of the Foreign Relations Committee. Together with the committee's Chairman, J. W. Fulbright, Democrat of Arkansas, they have protested increasingly in recent months that Congress has too little knowledge of, let alone control over, the agency's activities, particularly in Southeast Asia.

Senator Case urged on July 12 a tightening of restrictions over the Defense Department's use of its funds overseas and over its power to transfer "surplus" military material to other United States agencies. Mr. Case insisted that the C.I.A. be included in the restrictions lest United States involvement in Cambodia develop surreptitiously, as he said it had in Laos.

The proposed restrictions, he said, "would prevent the circumvention of Congressional intent in the funding of activities such as the Thai troops in Laos through C.I.A. rather than through more open Government agencies."

"It would also," he said, "eliminate the possibility that the Cooper-Church prohibitions against the use of American troops or advisers in Cambodia could be skirted by using C.I.A. personnel."

Stennis Their Irritant

The ire of the committee members is reported to be less against the C.I.A. itself than against Senator John C. Stennis, Democrat of Mississippi, Chairman of the Armed Services Committee and of the so-called "Oversight" Committee for the agency. The Oversight Committee comprises senior members of the Armed Services

and Appropriations committees plus four members of the Foreign Relations Committee. It is supposed to watch over all the agency's activities.

Under Senator Stennis's direction, however, it did not meet at all in 1971—to the annoyance of Senators from the Foreign Relations Committee, who contend that C.I.A. activities around the world intimately and sometimes decisively affect the conduct of United States foreign policy.

They have now moved to bypass Senator Stennis and to gain some control over the agency's funds, personnel and activities by writing controls into the aid bill. Some Congressional sources say, however, that there are still loopholes.

Specifically, according to legislative specialists, the new controls will require the following actions:

• A reduction in military personnel working for the agency in activities similar to military assistance advisory groups and military missions and will also limit the size of the United States mission now in Cambodia.

• Inclusion of agency in the \$341-million ceiling on aid to Cambodia and placing its arms

transfers in the category of military aid appropriation. The C.I.A. is said to have warehouses filled with arms at various points in Southeast Asia for distribution to anti-Communist guerrillas.

• A prohibition on paying foreign troops — such as the 4,800 Thai "volunteers" in Laos — more than the scales for the United States armed forces. Also, the agency could be specifically placed under existing restrictions on giving arms to forces in Southeast Asia.

• Submission of quarterly reports to Congress on Cambodia and annual reports or foreign aid. C.I.A. assistance will be included in the totals, although, some Congressional sources say, it will probably not be specifically identified.

Congressional sources concede that the controls may not prevent circumvention of Congressional intent — at least to some degree — by Richard Helms, Director of Central Intelligence, provided he is backed by the White House.

The National Security Council, to which Mr. Helms reports, has the final decision. Congressional experts point out.

Senate Panel Supports Curbs On Presidential War Powers

By JOHN A. FINNEY
 Special to The New York Times

WASHINGTON, Feb. 10 —

The Senate Foreign Relations committee contended today that proposed legislation defining the war powers of the President represented a needed and useful step toward restoring the constitutional balance between Congress and the executive branch.

The committee began setting the stage for a constitutional debate by issuing a favorable report on a war powers bill to be considered by the Senate in the next few weeks.

The legislation would provide that in the absence of a Congressional declaration of war, the President could not use the armed forces except in certain specified emergencies, such as an attack upon the United States or its forces or an imminent threat of attack, or to protect American citizens endangered in a foreign country.

Even in such emergencies the President could not continue hostilities for more than 30 days without obtaining Congressional approval.

Wide-Ranging Support

The legislation has wide-ranging support, with the cosponsorship of such Senators as Jacob K. Javits, Republican of New York; John Stennis, Democrat of Mississippi; Thomas F. Eagleton, Democrat of Missouri; William B. Spong Jr., Democrat of Virginia; Robert Taft Jr., Republican of Ohio, and Lloyd M. Bentsen, Democrat of Texas.

In the Senate, the bill seems likely to be opposed by some conservatives as well as by the Administration.

In a preview of the arguments ahead, Senator Barry Goldwater, Republican of Arizona, issued a statement contending that "183 years of experience under the Constitution has firmly established the principle that the President, as Commander in Chief and the primary author of foreign policy, has both a duty and a right to take military action at any time he feels danger for the country or its freedoms."

"Any legislation, such as the war powers bill, which would restrict his flexibility in these situations, is clearly unconstitutional," Senator Goldwater said.

The Goldwater views correspond generally with those of the Nixon Administration, which has objected that the proposed legislation would limit the President's flexibility in a nuclear age.

As if responding to this argument, the committee said in its report.

"No responsible citizen questions the right — or even the duty — of the President to take immediate action against a sudden attack, or imminent threat of attack, upon the United States or its armed forces.

What the committee does contest is that expansive view of executive prerogative which holds that the President may use the armed forces at will, even in conditions falling short of a genuine national emergency, and that he may sustain that use for as long as he, and he alone, sees fit."

In "additional views," Senator J. W. Fulbright, the committee chairman, supported the general purpose of the legislation but expressed concern that in defining the emergency situations in which the President might act, the provisions of the bill "may have the unintended effect of giving away more power than they withhold."

Demurer by Fulbright

For example, he said, the provision authorizing the President to "forestall the direct and imminent threat" of attack could be used "to justify almost any conceivable foreign military initiative" and could be "construed as sanctioning a pre-emptive, or first strike, attack solely on the President's own judgment."

Senator Fulbright announced that when the bill was considered by the Senate, he would offer a substitute approach that would provide that the President could use armed forces only in "a national emergency of such a nature as does not permit advance Congressional authorization," and that he could not use nuclear weapons without explicit Congressional authorization.

Senator John Sherman Cooper, Republican of Kentucky, questioned whether Congress could impose a 30-day limit on the President's emergency use of the Armed Forces.

His suggestion was that in event the President committed forces to foreign hostilities, Congress immediately be notified and proceed to consideration of the question of whether it would authorize such use of the armed forces.